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**OFFICE OF PETITIONS**

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In re Application of	:	
Pekka Lonka	:	
Application No. 10/692,273	:	DECISION ON PETITION
Filed: October 23, 2003	:	PURSUANT TO
Attorney Docket Number: 297-	:	37 C.F.R. § 1.137(B)
008681-US (REI)	:	
Title: MOBILE COMMUNICATIONS	:	
DEVICE WITH A CAMERA	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed July 31 2008, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED**.

The present application No. 10/692,273 is for the reissue of U.S. Patent number 6,308,084, which issued on October 23, 2001, from application number 09/325,025.

Both a notice of appeal and a "Pre-Appeal Brief Request for Review" were submitted on December 11, 2006. The above-identified application became abandoned for failure to reply in a timely manner to the "Notice of Panel Decision from Pre-Appeal Brief Review," mailed January 23, 2007, which set a one-month period for response. No response was received, and no extension of time under the provisions of 37 C.F.R. § 1.136(a) was requested. Accordingly, the above-identified application became abandoned on February 24, 2007. A notice of abandonment was mailed on January 7, 2008.

Decision on Petition pursuant to 37 C.F.R. § 1.137(b)

A petition to withdraw the holding of abandonment pursuant to 37 C.F.R. § 1.181 was filed on January 15, 2008, and was dismissed via the mailing of a decision on July 14, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay.

Petitioner has met the second and third requirements of Rule 1.137(b). The fourth requirement is not applicable, as a terminal disclaimer is not required for a reissue application - see 37 C.F.R. § 1.137(d)(3).

Regarding the first requirement, the requirement has not been satisfied, because Petitioner did not submit the required reply to the Office action. The required reply is a reply which would have been sufficient to have avoided abandonment, had such reply been timely filed.<sup>1</sup> In order for the application to be revived, Petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(b)(1) (i.e., an amendment that *prima facie* places the application in condition for allowance; a continuing application under 37 C.F.R. § 1.53(b); a request for continuing examination under 37 C.F.R. § 1.114, if applicable; or a 37 C.F.R. § 1.129(a) submission, if applicable).

The Examiner has considered the amendment that was filed concurrently with this petition, and it has not been found to

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<sup>1</sup> See M.P.E.P. § 711.03(c).

Decision on Petition pursuant to 37 C.F.R. § 1.137(b)

place this application in condition for allowance, for the reasons set forth in the attached Advisory Action.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,<sup>2</sup> hand-delivery,<sup>3</sup> or facsimile.<sup>4</sup> Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.<sup>5</sup>

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included; adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.<sup>6</sup> All other inquiries concerning examination procedures should be directed to the Technology Center.

/Kenneth M. Schor/

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Kenneth M. Schor  
Senior Legal Advisor  
Office of Patent Legal Administration

Encl.      Advisory Action

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<sup>2</sup> Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

<sup>3</sup> Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

<sup>4</sup> (571) 273-8300- please note this is a central facsimile number.

<sup>5</sup> <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>

<sup>6</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).